

New Hampshire Department of Revenue Administration Fiscal Note Quick Guide

16-2710

SB 342-FN, *making certain changes to business profits tax provisions affecting a business organization when owners sell or exchange ownership interests in the business.*

Senate Ways & Means Committee

This proposed bill repeals RSA 77-A:4, IIV and reenacts it to provide that if a business organization realizes under federal income tax law an increase in the basis of one or more of its assets as the direct result of a sale or exchange of an ownership interest in such business organization without a corresponding recognition of taxable income attributable to such increase in basis, the business organization shall determine its gross business profits without taking the increase in basis into account.

A business organization shall report an addition to gross business profits of an amount equal to any deduction for depreciation or amortization attributable to any such increase in the basis of its assets for federal income tax purposes.

A business organization will determine the gain or loss at the time of the actual disposition of its assets without taking such increase in basis for federal purposes into account.

This bill shall take effect for sales or exchanges of interests in business organizations that occur on or after July 1, 2016 and is effective upon passage.

The exclusion of the net increase in the basis of the assets of a business organization resulting from the sale or exchange of an interest in the business organization from the Business Profits Tax will decrease state revenues by an indeterminable amount in FY 2017 going forward.

If the proposed legislation had been in effect over the previous five tax years, state revenues could have been decreased as follows:

- Tax Year 2010 \$ 1.9 million
- Tax Year 2011 \$ 0.9 million
- Tax Year 2012 \$13.3 million
- Tax Year 2013 \$ 6.6 million
- Tax Year 2014 \$ 3.8 million (note; incomplete tax year)

The above numbers are based upon reported sale transactions that resulted in increased basis adjustments and the subsequent tax thereon. However, it is not possible to predict how many interest holders will engage in the sale or exchange of their interest at some time in the future. But, to the extent interest holders engage in sale or exchange transactions that result in otherwise taxable basis adjustments at the business entity level and with the transaction no longer being taxable, the result will be forgone revenues in the year the transaction takes place.